

**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT COMMISSION
OF THE
STATE OF CALIFORNIA**

**APPLICATION FOR CERTIFICATION
FOR THE RIVERSIDE ENERGY
RESOURCE CENTER PROJECT**

DOCKET No. 04-SPPE-1

**ERRATA TO THE PRESIDING MEMBER'S
PROPOSED DECISION
-and-
RESPONSE TO COMMENTS**

Dated December 13, 2004, at Sacramento, California.

JACKALYNE PFANNENSTIEL
Commissioner and Presiding Member
RERC SPPE Committee

JOHN L. GEESMAN
Commissioner and Associate Member
RERC SPPE Committee

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STATE OF CALIFORNIA

APPLICATION FOR CERTIFICATION
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Docket No. 04-SPPE-01

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INTRODUCTION

Pages 1 & 2, Footnote 6:

“...and a 45-day public EPA comment period under the National Environmental Policy Act (NEPA) EPA Title V Regulations.”

Page 3, first full paragraph, third sentence:

The project is not expected to exceed 2660 hours per year for the two turbines combined, or an equivalent limitation, described in the permit to be issued by the District.

Page 4, delete first full paragraph:

Pages 5 & 6:

California Unions for Reliable Energy (CURE) is a coalition of unions whose members construct and operate power plants in California. Members of the unions represented by CURE live in the Riverside community. ~~For many years CURE has been an experienced and knowledgeable intervenor in power plant siting cases at the Energy Commission.~~

E. Topic Areas Having Less than Significant Impacts After Mitigation

Page 22, add to end of first paragraph:

Deleted: The project is not proposed to exceed 1330 hours of operation per year. (8/30/04 RT 13.)¶

Deleted: The record shows that after a lengthy review process of bid proposals for project construction, the City's project team awarded the project construction contract for a not-to-exceed contract price of \$25,288,000, including a requirement that the contractor pay prevailing wages.¹ RPU Director Tom Evans commented that prior to the award of the construction contract, Intervenor CURE, as well as the International Brotherhood of Electrical Workers Local 47, and the State and local councils for the Building and Construction Trades requested that Riverside Public Utilities enter into a Project Labor Agreement (PLA) and a Maintenance Labor Agreement (MLA) for RERC. These agreements provide that all work performed will be done by union laborers. The City determined that the short-term nature of the construction project and the relatively small number of employees on the construction site at one time did not justify the benefits of a Project Labor Agreement. Thus, the City did not enter a PLA. (8/30/04 RT 38-40.)¶

Deleted: an organization that represents several building trades labor unions involved in the construction and operation of electric power plants throughout the state and in the Riverside area.

Deleted: For cases in which an Applicant has not previously agreed to enter a Project Labor Agreement for construction and operation of its project, CURE has taken an active and aggressive role in the siting case, challenging the adequacy of environmental review and potential mitigation measures.

In addition, the Project Owner has indicated that a qualified paleontological specialist will prepare a paleontological resource mitigation and monitoring plan that includes measures to excavate and curate any paleontological resources that might be found during construction work on the project site.

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Page 26, add new paragraph following first partial paragraph:

In its comments on the Proposed Decision, CURE argued that in order to protect members of the public that may enjoy stopping to watch the earthmoving activity, Applicant should restrict public access to areas within the 50 µg/m³ and 1.0 µg/m³ isopleths (shown in Exhibits 27 1B and 27 2B), during the period of heavy earthmoving. At the Committee Conference of December 9, 2004, Applicant agreed to CURE's recommendation and will restrict public access during the time of heavy earthmoving activities.

AIR QUALITY

a. Construction Effects

Page 30, second sentence:

CURE asserts that impacts from dust and tailpipe particulate matter of 10 microns or less in diameter (known as PM₁₀), and from tailpipe emissions of oxides of nitrogen (NO_x), may be significant. ~~Yet both~~ The maximum impacts during initial site preparation will be very short-lived: three weeks or less, with the worst potential dust impacts coming in a three- to four-day period when the higher silt content topsoil is being handled. (8/31/04 RT 230.)

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(b) SCAQMD's 10.4 µg/m³ Threshold

Pages 32-33, fourth and fifth sentences:

With regard to the concentration, all parties (including CURE) testified that 24-hour concentrations will be less than 10.4 µg/m³ at all receptors under an eight-hour construction schedule, even at the dog kennel. ~~The concentration level drops rapidly with distance and is less than~~ 2.5 µg/m³ at the nearest sensitive receptor, or less than one-quarter of the level predicted at the dog kennel. (Ex. 15, p. 4-14; 8/31/04 RT 54-55) With regard to the threshold, ~~it is not binding on this Commission. (Ex. 15, p. 4-16; e.g., 8/31/04 RT 41 – 51).~~

Deleted: where concentrations to non-sensitive receptors will be 10.23 µg/m³.

Deleted: only

Deleted: as the Air District testified, it is inapplicable because it is a threshold designed for long-term operation impacts, not short-term construction impacts (8/31/04 RT 206), and, was explained above,

Deleted: us in any event

Deleted: However, the 134.9 pounds/day figure is based on a 12-hour construction schedule. (Ex. 15, p. 4-13.) In an 8-hour day, which we are requiring as a condition of exemption (AQ-C5), the emissions would be approximately 89.9 pounds/day, well under the threshold. Moreover

Deleted: would

Deleted: even

(3) SCAQMD's 100 Pounds/Day NO_x Threshold

Page 34, last two sentences on the page:

~~However, we find 134.9 pounds/day to be insignificant, because such emissions would not substantially increase ozone concentrations in the site vicinity, would not interfere with~~

implementation of SCAQMD's ozone attainment plan, and would be temporary – no more than three or four ~~weeks~~. (Ex. 15, p. ~~4-20~~; RT 8/31/04 57, 229-230, 242.) (The threshold appears to be part of a control strategy for ozone, for which NO_x is a precursor.)

Deleted: days

Deleted: 240

b. Operations Effects

(1) SCAQMD's 150 pounds/day PM₁₀ Threshold

Page 41, first full paragraph, fourth sentence:

Furthermore, SCAQMD will require the project to offset all of its PM₁₀ operating emissions if those emissions trigger their offset requirements, and if emission offsets are not triggered by SCAQMD rules, **AQ-1** will require all PM₁₀ emissions to be offset, thus fully offsetting any potential impacts to less than significance.

(3) ERCs for PM₁₀, or VOCs, Based on "Potential to Emit"

Page 43, third paragraph, third sentence:

If, during the proceedings, SCAQMD determines that the potential to emit was miscalculated, and the revised potential to emit exceeds their offset threshold(s), it will require RERC to provide offsets to cover what it believes to be the accurate potential to emit. (COE AQ-1 requires the applicant to provide offsets for any amount of non-attainment pollutant and criteria non-attainment pollutant emissions not required to be offset by SCAQMD.)

Page 44, first paragraph, last two sentences:

Furthermore, the project will use Best Available Control Technology (BACT) to limit CO emissions. ~~For all of these reasons, we find CURE's assertion's in this regard to be clearly erroneous and not based on facts.~~

Deleted: , and any remaining CO emissions will be offset through implementation of the required diesel engine retrofit program. (Ex. 12, p. 4-49.)

Page 53:

AQ-1

5. Turbine emissions shall not exceed 3 lbs/hour/turbine PM₁₀ or any comparable emission limitation imposed by the South Coast Air Quality Management District.

Page 54, add to the end of the Verification section:

If SCAQMD does not provide emission limitations comparable to those identified in Items 5 and 6 of this Condition of Exemption, the project owner shall provide the District annual operating reports demonstrating compliance with these requirements.

FINAL CONDITIONS OF EXEMPTION

Page 55, change verifications:

BIO-1

Verification: No fewer than 60 days prior to the start of ~~site mobilization~~ transmission line construction the project owner shall...

BIO-2

Verification: No fewer than ~~60~~ 30 days prior to any project-related site mobilization activities...

Page 62, change verification:

GEO-1

Verification: At least 30 days prior to the start of ground disturbance along the transmission line alignment, the project owner shall submit a copy of the Soils Engineering Report.

Page 64:

LAND-1

Verification: At least 60 days prior to the start of construction, the project owner shall concurrently submit the site development plan to the CPM and the City of Riverside Planning Department. The material submitted to the CPM must include documentation that the City of Riverside Planning Department has been given the opportunity to review and comment on the plan and its compliance or conformance with the above-referenced requirements.

Page 65:

NOISE-2, change reference in first bullet item:

- Use the Noise Complaint Resolution Form (see Staff's Final Initial Study - Exhibit 12, p. 12-15), or functionally equivalent procedure acceptable to the CPM, to document and respond to each noise complaint;

NOISE-3, change references to a noise level of "51 dBA" in the first and fourth paragraphs to "50 dBA".

Page 67:

TRANS-2 If the City of Riverside Airport Director determines it is necessary, the cooling tower stacks and transmission poles shall have red obstruction lights...

TRANS-3

Verification: At least 60 days prior to the start of construction, the project owner shall submit an Avigation Easement to the Riverside County Land Use Commission staff for review and for recordation purposes, ~~and Prior to operations,~~ a copy of the recorded document shall be forwarded to the CPM for review and approval.

PUBLIC COMMENT

The Associated Builders and Contractors of California (ABC) submitted written comments and appeared at the Committee Conference held December 9, 2004. The ABC representatives urged the Committee to leave language in the Proposed Decision which discussed CURE's level of participation in Commission siting cases in relation to the presence or absence of a Project Labor Agreement.

The Committee considered the comments of ABC but has nevertheless decided to delete the language in question because it is not based upon formal evidence of record in this case and is not essential to the Commission's decision on this SPPE.

Gurumantra S. Khalsa submitted written comments on behalf of The Friends of Riverside's Hills. The comments state that the project, "... will pose a visual presence that cannot be mitigated due to its site selection adjacent to the Santa Ana River." The letter nevertheless recommends as "additional mitigation" that Applicant fund and develop a five-mile stretch of trail along the Santa Ana River with a one million dollar endowment.

Neither the analysis of Applicant nor that conducted by Staff regarding project impacts on visual resources revealed evidence of a significant visual impact due to the project. Furthermore, no other evidence of a significant impact was introduced. Since there is no evidence of a significant visual impact from the project, the recommended mitigation cannot be required.